

Rule 47. Local Rules by Courts of Appeals

(a) Local Rules.

(1) Each court of appeals acting by a majority of its judges in regular active service may, after giving appropriate public notice and opportunity for comment, make and amend rules governing its practice. A generally applicable direction to parties or lawyers regarding practice before a court must be in a local rule rather than an internal operating procedure or standing order. A local rule must be consistent with — but not duplicative of — Acts of Congress and rules adopted under 28 U.S.C. § 2072 and must conform to any uniform numbering system prescribed by the Judicial Conference of the United States. Each circuit clerk must send the Administrative Office of the United States Courts a copy of each local rule and internal operating procedure when it is promulgated or amended.

(2) A local rule imposing a requirement of form must not be enforced in a manner that causes a party to lose rights because of a nonwillful failure to comply with the requirement.

(b) Procedure When There Is No Controlling Law. A court of appeals may regulate practice in a particular case in any manner consistent with federal law, these rules, and local rules of the circuit. No sanction or other disadvantage may be imposed for noncompliance with any requirement not in federal law, federal rules, or the local circuit rules unless the alleged violator has been furnished in the particular case with actual notice of the requirement.

Local Rule 47(a). Procedures for Adoption of Local Rules and Internal Operating Procedures.

Following tentative approval of an amendment to its local rules or internal operating procedures, and consultation with its Advisory Committee on Rules and Procedures, the Court of Appeals will provide public notice of the proposed amendment and an opportunity for comment.

The Court will set a period for comment for each proposed amendment, based upon the urgency of the matter involved. If the Court determines that there is an immediate need for a rule, the Court may provide that an amendment take immediate effect, and promptly thereafter afford notice and opportunity for comment.

Notice of a proposed amendment will be provided by distribution of the proposed change to all district judges, bankruptcy judges, magistrate judges, district and bankruptcy clerks, United States Attorneys, and state bar associations within the Circuit. Notice will also be sent to all legal newspapers and bar journals within the Circuit. Such notice shall include the text of a proposed amendment, unless it is lengthy. If the amendment is lengthy, the notice will describe the purpose and effect of the proposed amendment, and advise interested parties to obtain copies of the text of the proposed amendment from the clerk. Any person or organization requesting routine notice of proposed amendments to the Court's rules and internal operating procedures may, by letter to the clerk, be placed on the mailing list for such proposed changes.

All comments will be addressed to the Clerk of the Court of Appeals. If comments are received, they will be circulated to all members of the Court prior to the effective date of the proposed amendment, unless the amendment was given immediate effect.

Local Rule 47(b). Advisory Committee on Rules and Procedures.

The Court's Advisory Committee on Rules and Procedures shall consist of five attorneys, one from each of the states constituting the Fourth Circuit.

The members shall be appointed by the Chief Judge of the Circuit for three-year terms. The terms shall be staggered, so that no more than two members' terms expire in any year. No person may serve more than two full three-year terms.

The Chief Judge of the Circuit shall designate one of the members to serve as chair of the Committee. The clerk shall serve as the Court's principal liaison with the Committee.

The Committee shall study the Court's local rules and internal operating procedures, make recommendations concerning them, and advise the Court concerning all proposed changes to them.

I.O.P.-47.1. Judicial Conference.

- (A) There shall be held pursuant to 28 U.S.C. § 333 a conference of all the circuit and district judges, all bankruptcy judges and all full-time magistrate judges of the Circuit for the purpose of considering the business of the courts, advising means of improving the administration of justice within such Circuit, and discussion of ideas with respect to the administration of justice. It shall be the duty of every judge of the Circuit in active service and every full-time magistrate judge to attend such conference.*
- (B) The first day of the conference shall be devoted to a session for the judges alone, in which there shall be discussed matters affecting the state of the dockets and the administration of justice in their respective districts.*
- (C) Members of the bar to be designated, as hereafter set forth, shall be members of the conference. Such members, except members emeritus, shall participate in the conference discussions and deliberations on the second and third days.*
- (D) Members of the conference from the bar shall be as provided in I.O.P. 47.2 as approved by the active circuit judges sitting from time to time in administrative session.*
- (E) The Circuit Executive of this Court shall be the secretary of the conference, and shall make and preserve an accurate record of its proceedings.*
- (F) Each member of the bar designated as a member of the conference shall pay an annual membership fee in an amount fixed by the Court of Appeals, to be applied to the payment of the expenses of the conference as approved by the Chief Judge of the Circuit. The payment of the annual membership fee shall be a condition to retention of conference membership. The Chief Judge is entitled to excuse payment of such fee in the proper circumstances.*

-47.2. Membership in the Judicial Conference of the Circuit.

Commencing with the 2009 conference, there shall be four types of members of the conference: ex officio members, invited members, permanent members, and members emeritus.

(A) Ex officio Members.

- (1) The Attorney General of the United States, or designee.*
- (2) The presidents of the state bar associations of the states of the Circuit. When two bar associations in the same state are both recognized under this rule, the president of each shall be entitled to attend, and the maximum number of members of the conference from the bar, from any state, under this provision, shall be limited to two. As long as there is only one state bar association in Maryland, the Bar Association of Baltimore City may be treated as a state bar association under this provision.*
- (3) One representative of the federal bar association elected to the Federal Bar Council from the Fourth Circuit, each conference year, on a rotational basis.*
- (4) All United States Attorneys in the Circuit.*

- (5) *All Federal Public Defenders in the Circuit.*
- (6) *All Community Defenders in the Circuit.*
- (7) *All Chief Justices of the courts of last resort of the states comprising this Circuit.*
- (8) *All Attorneys General of the states comprising this Circuit.*
- (9) *The Chief Judge of the United States Court of Appeals for the Armed Forces.*
- (10) *The Chief Judge of the United States Tax Court.*
- (11) *One representative of each accredited law school within the Circuit.*

(B) Members Designated by Judges.

(1) Invited Members.

Lawyers who are not permanent members of the conference as set forth under (B)(2) below are invited by the Chief Judge as guests of a scheduled conference upon designation by an active or senior circuit or district judge.

- (a) *Each active or senior circuit judge or district judge may designate two guests for invitation to the conference.*
- (b) *Each new circuit or district judge attending his or her first two conferences as a judge may designate three guests for invitation to the conference.*

(2) Permanent Members.

- (a) *By attending two biennial conferences (or, alternatively, one biennial and two annual conferences, or three annual conferences) as an invited member under (B)(1) above, a lawyer shall become a permanent member of the conference, entitled to attend future conferences. In order to retain such permanent member status, a permanent member must have, in a given year, paid the annual membership fee and, commencing after the 2009 conference, attended the most recent conference or at least one of the two conferences preceding it.*
- (b) *A former or retired circuit or district judge of the Circuit shall be a permanent member of the conference, entitled for life to attend all conferences.*

(3) Members Emeritus.

A permanent member for ten years or more shall become a member emeritus upon either:

- (a) *Failing to satisfy the requirements for retaining permanent member status under (B)(2) above; or*
- (b) *Electing to assume member emeritus status and properly notifying the conference secretary of such decision.*

In order to retain member emeritus status, a member emeritus must have, in a given year, paid the annual membership fee in the amount fixed for emeritus membership. A member emeritus will not be invited to attend future conferences, except as an invited member under (B)(1) above. A member emeritus may be reinstated as a permanent member by designation of the Chief Judge for good cause shown, or by again qualifying for permanent membership under (B)(2) above.

I.O.P.-47.1 amended February 16, 1993; August 1, 2005; and December 1, 2008.

I.O.P.-47.2 amended February 16, 1993; September 25, 1996; August 1, 2005; April 16, 2007; December 1, 2008; editorial correction March 13, 2009; and amended February 1, 2011.